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LETTER DATED 21 JUNE 1993 FROM THE PERMANENT REPRESENTATIVE OF
THE SUDAN TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF
THE SECURITY COUNCIL

Further to my letter No. Sup/2-1/5 dated 25 May 1993 (S/25925) and its enclosures, I have the honour to transmit herewith for your kind attention a letter from H.E. Dr. Hussain Abu Salih, Minister of Foreign Affairs of the Republic of the Sudan regarding the unabated aggression of the Egyptian Government on the Sudanese region of Halaib.

This blatant aggression of the Egyptian authorities constitutes a grave threat to the peace and security in the area.

I would be grateful if you could kindly circulate this letter as a document of the Security Council.

(Signed) Ahmed SULIMAN
Permanent Representative

Annex

[Original: Arabic]

Letter dated 19 June 1993 from the Minister for Foreign Affairs
of the Sudan addressed to the President of the Security Council

With reference to the letter dated 30 May 1993 from the Minister for Foreign Affairs of Egypt (S/25926) in response to our letter dated 18 May 1993 (S/25925) concerning the persistence of the Egyptian Government in its violations of and open aggression against Sudanese sovereignty in the Halayib area, which pose a threat to security, peace and stability in the entire region and not only in the Sudan and Egypt, we should like to inform the Council as follows:

1. The Council has no doubt noted that each of the letters we have addressed to you since the Egyptian aggression against Sudanese sovereignty began has conveyed both a record of the latest developments with respect to Egyptian violations and an affirmation of the official position of Sudan concerning those violations.

Since the Sudan is fully aware of the rules and possible frameworks for addressing the situation at this stage of development of the dispute, we are anxious to place the Council in possession of the facts relating to all ongoing developments on the ground in the Halayib triangle.

2. Accordingly, the attempts made at a number of points in the letter from the Minister for Foreign Affairs of Egypt addressed to you to belittle and disparage the importance of our previous letters assuredly do not refute an official position registered by the Sudan with the Council concerning Egyptian occupation and Egyptian violations of the Sudan's sovereignty in the Halayib region.

While the Minister for Foreign Affairs of Egypt has failed to perceive its importance, we have to state that this position is fully in keeping with the insistence of all successive Sudanese Governments since 1958 that the Sudan's complaint against Egypt with regard to its encroachment on the Halayib region should continue to stand pending its resolution by political, legal or judicial means in accordance with the provisions of the United Nations Charter.

3. We note that the letter of the Minister for Foreign Affairs of Egypt again reiterates the statements already made by Egypt to the effect that the northern boundaries of the Sudan were established by the Agreement of 1899 at the 22nd parallel and that the modifications made to them in 1902 and 1907 were administrative adjustments by which no derogation of Egypt's sovereignty was intended.

You are aware from our previous letters that the Sudan concedes that the 1899 Agreement is among the legal documents, instrumentalities, concepts and principles that govern the status of the boundary between the Sudan and Egypt. It is not, however, uniquely authoritative in establishing the boundaries

between the two countries, and there are a number of other legal documents to which appeal must be made in the boundary dispute between the two countries or in any boundary dispute.

4. Although the Sudan adheres to the view previously expressed in its letters that the Council is not a forum contentiosum, we should like to call its attention to the following:

(a) The 1899 Agreement is that self-same agreement that has been rejected by all successive Egyptian nationalist movements and governments and regarded by them as null and void and devoid of force or effect. This is demonstrated by the official Egyptian documents themselves as well as by other international instruments and documents.

(b) The correct official title of the 1899 Agreement is "Agreement for the Future Administration of the Sudan", meaning an agreement "concerning the future administration of the Sudan" or "concerning the administration of the Sudan in the future". This being the case, how can this allow the Egyptian Government to claim that the 22nd parallel is the "international boundary" between the Sudan and Egypt? It should be understood that neither Egypt nor the Sudan was a "nation" at the time the agreement was concluded in 1899. Egypt was a de facto British protectorate and, indeed, an Ottoman province.

(c) Since the basic objective of the 1899 Agreement was the administration of the Sudan in the future, is it not logical for us to ask: Why should the 22nd parallel not be an administrative boundary between two entities or regions over which effective control was exercised by one of the great Powers, namely Great Britain, given that Egypt continued to be a British protectorate until 1922?

(d) International boundaries are not necessarily determined by a single authoritative source. The principle is rather that, in establishing their legal status, appeal should be made to numerous other legal documents and instruments, to maps, to legal principles, and to those means of arbitration that have settled numerous international boundary disputes.

5. The Minister for Foreign Affairs of Egypt is also of the view that Egypt's sovereignty over the Halayib area is based on the factual situation. Without entering into details, we should like to state that the modification of the 1899 Agreement was carried out with the intention of amending the 22nd parallel to accord with the demographic situation in terms of tribal affiliation and allegiance in the two countries. We agree with the Minister for Foreign Affairs of Egypt that the modifications were also made for humanitarian reasons. This perhaps accords with the statement made by the representative of the United Kingdom concerning the status of the boundaries between the two countries at the meeting held by the Security Council on 21 February 1958 on the complaint by the Sudan.

6. The current factual situation on which the Minister for Foreign Affairs of Egypt bases himself in his letter addressed to you is, in the view of the Sudan, one of Egyptian occupation and an attempt by the Egyptian armed forces to

perpetuate that occupation by military and civil measures. It is, in the view of the Sudan, an act of aggression that is unacceptable and is null and void. The Sudan calls once more for recourse to international law and to nothing but international law, in accordance with those provisions of the United Nations Charter relating to the settlement of disputes and as set forth in detail in article 38 of the Statute of the International Court of Justice.

7. The higher authorities in the Sudanese and Egyptian Governments agreed to establish a Joint Commission of the two parties as a mechanism for the discussion and resolution of the various aspects of the dispute. Despite the continuing Egyptian violations of Sudanese sovereignty at Halayib, the Sudan remains prepared to pursue the dialogue through the Joint Commission subject to the withdrawal by Egypt of its occupying forces and a return to the situation prevailing in the area in March 1992, when the meetings of the Joint Commission began. The Sudan sees no point in the meetings of the Joint Commission continuing while Egypt is persisting in its violations and in its occupation of the territory in dispute.

8. It is our belief that the proposal of the Minister for Foreign Affairs of Egypt that the dispute with the Sudan should be settled within the framework of the Commission established for this purpose adds nothing new as long as the Egyptian authorities continue to alter the character of the area and to occupy it by military force. The Egyptian authorities have persisted in their violations of Sudanese sovereignty and indeed in their violations of the conventions, rules and provisions of international law, inasmuch as they have unilaterally and by force of arms proceeded to demarcate the boundaries in dispute between the two countries and to install markers on the ground.

As you are aware, the determination of boundaries goes through numerous stages before it reaches the stage of demarcation on the ground, which is carried out by a joint team of the two parties. It is well established in boundary-making that the joint team in question should have determinative powers that enable it to take account of humanitarian aspects, sound administration and the actual situation within a framework of justice and fairness for both parties.

9. The Sudan is anxious to have recourse to the customary legal and judicial procedures in order to resolve such differences. In our previous letters to you, we called upon the Egyptian Government to declare its agreement to withdraw its military forces from Sudanese territory and to choose the mechanisms and means for the diplomatic and legal solution that it desires, whether by judicial means or through arbitration.

10. The occupation of territory by military force does not provide a durable solution to any dispute. Accordingly, we have made a point of inviting the Egyptian Government to participate in creating an appropriate atmosphere for dialogue and negotiations. We once again repeat that invitation, despite the continuing escalation, the concentration of Egyptian military forces at Halayib and the fact that Sudanese nationals are being prevented from entering the Halayib area, all of which may have grave consequences for the region.

This is the Sudan's official position with regard to the dispute concerning the Halayib region. Accordingly, we call upon you to have the Council assume the task of containing an explosive situation that poses a threat to security and peace in the region and to induce Egypt to withdraw its forces from the Halayib region, rescind all of the measures it has taken in the area and ensure an appropriate atmosphere for the resumption of the talks within their proper legal framework.

(Signed) Husain Suliman ABU SALIH
Minister for Foreign Affairs of
the Republic of the Sudan
